IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 30518 of 2004(G)

PETITIONER:

JAYADEVA KAIMAL.V. CHANGETTUMANNIL
PUTHEN VEEDU, H.NO.194/VIII, MEZHAVELI,
THAMPANAM THAZHOM, KOZHENCHERRY, PATHANAMTHITTA.

BY ADV. SRI.T.D.SALIM

RESPONDENTS:
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1. **UNION OF INDIA, REP. BY IS SECRETARY,**
   MINISTRY OF DEFENCE, NEW DELHI.

2. **DIRECTORATE GENERAL OF ARTILLERY**
   (ARTY-7D), GENERAL STAFF BRANCH, ARMY HEAD QUARTERS,
   DHQ,P.O. NEW DELHI 110 011.

3. **CHIEF RECORDS OFFICER,**
   O.I.C.RECORDS, TOPKHANA ABHILEKH, ARTILLERRY
   RECORDS, NASIK ROAD, CAMP 422 102.

BY ADV. SRI.M.K.SUMOD, ADDL.CGSC
SRI. AJITH KRISHNAN, ADDL.CGSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.30518/2004 G

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF ATTRIBUTABILITY CERTIFICATE OF DEATH OF THE PETITIONER DTD. JUNE 2004.**

EXT.P2: **COPY OF THE LETTER DTD. 29/09/2003 ISSUED BY THE OFFICE OF THE OIC RECORDS.**

EXT.P3: **COPY OF OFFICE MEMORANDUM NO.F.NO.14014/23/99-ESTT. (D) DTD. 3/12/1999 OF THE K.K.JHA, DIRECTOR (ESTABLISHMENT) MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS, NEW DELHI – 1.**

EXT.P4: **COPY OF THE OFFICE MEMO.NO.F.14014/97-ESTT (D) DTD.4/03/98 OF THE DIRECTOR (ESTABLISHMENT) MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSION, NEW DELHI.**

EXT.P5: **COPY OF INCOME CERTIFICATE NO.A9 3118/03/KTM DTD. 06/03/2003 ISSUED BY THE TALUK OFFICE, KOZHENCHERRY.**

EXT.P6: **COPY OF THE LETTER NO.SR/1514416 & N/EMP/NE-2(G) DTD. 26/07/2004 OF THE 3RD RESPONDENT.**

1ST RESPONDENT'S EXHIBITS:

EXT.R1: **COPY OF LETTER NO.A/10001/PC-489/Arty-7D DTD. 21/06/2004.**

EXT.R2: **COPY OF THE GOVT. OF INDIA OFFICE MEMORANDUM NO. 14014/5/94-EST.(D) DTD. 11/05/1994.**

EXT.R3: **COPY OF THE GOVT. OF INDIA OFFICE MEMORANDUM NO. 14014/22/94-EST (D) DTD. 22/11/1994.**

EXT.R4: **COPY OF THE BOARD PROCEEDINGS.**

/TRUE COPY/

KSS

KURIAN JOSEPH, J.

W.P(C)No. 30518 of 2004

Dated this the 28th day of March, 2007

JUDGMENT

The prayer is for compassionate appointment. He is the brother of a soldier killed while on duty under operation Rakshak at Jammu and Kashmir. It is seen from the impugned order as well as the counter affidavit that petitioner's name was not included in the list of selected candidates since there were no sufficient number of vacancies. But it is admitted that the list was kept alive only for one year. According to the petitioner going by the revised policy a list is to be kept alive for three years, for being considered against the 5% vacancies reserved for compassionate appointment. Reference is invited to judgment dated 22-11-2006 in W.P(C)No.15341/2004 and the communication dated 26-12-2005 of the Director General of Defence. Since the rejection is only on account of the validity of the waiting list for one year, in view of the stand as reflected from the document referred to above that the revised policy is for keeping the list for three years, it is for the petitioner to approach the second respondent. In the event of the

petitioner thus approaching the second respondent, the matter will be duly considered by the second respondent in respect of the vacancies available against the 5% vacancy, had the list been available for three years. The needful shall be done in the matter within a period of three months from the date of receipt of the representation along with a copy of the documents referred to above.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.